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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,668	01/31/2006	Olivier Geneste	SERVIER 483 PCT SEQ	3568

25666 7590 03/22/2007
THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007

EXAMINER

MONSHIPOURI, MARYAM

ART UNIT	PAPER NUMBER
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1656

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/566,668

Applicant(s)

GENESTE ET AL.

Examiner

Maryam Monshipouri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 21-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date filed 10/06&1/06.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: see attachment.

DETAILED ACTION

Claims 21-28 are under examination on the merits. Claims 1-20 are canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "anti-apoptotic proteins of the Bcl-2 family" in claim 21 (and its dependent claims 22-26) is indefinite. It is unclear as to which proteins applicant is referring to.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "point mutant" in claim 23 is confusing. It is not known whether applicant is referring to a single point mutant or multiple point mutants. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-22, 24-25, 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimkets et al. (Geneseq Database, Accession No. AAC74541, 2/2001).

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Shimkets teaches an isolated polypeptide comprising SEQ ID NO:1 of this invention and its encoding DNA, prior to this invention, anticipating claims 21-22, 24-25. Said peptide interacts with "anti-apoptotic proteins of Bcl-2 family" by inherency. Applicant is reminded that Shimkets also discloses a World Patent (namely WO200058473, March 2000), which discloses SEQ ID NO:1-2, as well as vectors comprising said DNA sequences prior to this invention, anticipating claims 21-22, 24-25 and 27-28. However, due to the fact that said patent is more than 5000 pages long the Office was not capable of sending its hard copy to applicant. Said patent can be retrieved from the commercially available electronic databases at applicant's convenience.

Claims 23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammond et al. (US 20030032157 published 2/2003). Hammond teaches both a peptide comprising a fragment (or "point mutant") of SEQ ID NO:1 (see residues 235-256 of Hammond in the attached sequence alignment) having 94.6% identity to SEQ ID NO:1 and DNA (deduced or otherwise) encoding it prior to this invention anticipating claims 23 and 26.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleene Kerr Bragdon can be reached on (571) 272-0931. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

~~M. Monshi~~
Maryam Monshipouri Ph.D.

Primary Examiner

; ORGANISM: Homo sapiens
US-10-092-750-29

Query Match 94.6%; Score 106; DB 4; Length 44;
Best Local Similarity 100.0%; Pred. No. 1.2e-09;
Matches 21; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

Qy 2 TRRSVMVFARHLREVGDEFRSR 22
| | | | | | | | | | | | | | | | | | | | | |
Db 14 TRRSVMVFARHLREVGDEFRSR 34

RESULT 4

US-10-369-493-10660
; Sequence 10660, Application US/10369493
; Publication No. US20030233675A1
; GENERAL INFORMATION:
; APPLICANT: Cao, Yongwei
; APPLICANT: Hinkle, Gregory J.
; APPLICANT: Slater, Steven C.
; APPLICANT: Goldman, Barry S.
; APPLICANT: Chen, Xianfeng
; TITLE OF INVENTION: EXPRESSION OF MICROBIAL PROTEINS IN PLANTS FOR PRODUCTION OF
; TITLE OF INVENTION: PLANTS WITH IMPROVED PROPERTIES
; FILE REFERENCE: 38-10(52052)B
; CURRENT APPLICATION NUMBER: US/10/369,493
; CURRENT FILING DATE: 2003-02-28
; PRIOR APPLICATION NUMBER: US 60/369,039
; PRIOR FILING DATE: 2002-02-21
; NUMBER OF SEQ ID NOS: 47374
; SEQ ID NO 10660
; LENGTH: 403
; TYPE: PRT
; ORGANISM: Sphingomonas aromaticivorans
US-10-369-493-10660

Query Match 46.4%; Score 52; DB 4; Length 403;
Best Local Similarity 71.4%; Pred. No. 8.2;
Matches 10; Conservative 1; Mismatches 3; Indels 0; Gaps 0;

Qy 7 VFARHLREVGDEFR 20
| | | | | | | | | | | | | | | | | | | | | |
Db 51 VLARHLAAVGDEFK 64

RESULT 5

US-10-893-608-3
; Sequence 3, Application US/10893608
; Publication No. US20050047214A1
; GENERAL INFORMATION:
; APPLICANT: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
; APPLICANT: Gershwin, Eric M.
; APPLICANT: Leung, Patrick S.C.
; TITLE OF INVENTION: DISCOVERY OF THE MICROORGANISM THAT CAUSES THE HUMAN AUTOIMMUNE
; TITLE OF INVENTION: DISEASE, PRIMARY BILIARY CIRRHOSIS
; FILE REFERENCE: UCD1190-1
; CURRENT APPLICATION NUMBER: US/10/893,608
; CURRENT FILING DATE: 2004-07-15
; NUMBER OF SEQ ID NOS: 22
; SOFTWARE: PatentIn version 3.3
; SEQ ID NO 3
; LENGTH: 406
; TYPE: PRT
; ORGANISM: Novosphingobium aromaticivorans
US-10-893-608-3

Query Match 46.4%; Score 52; DB 5; Length 406;
Best Local Similarity 71.4%; Pred. No. 8.2;
Matches 10; Conservative 1; Mismatches 3; Indels 0; Gaps 0;

Qy 7 VFARHLREVGDEFR 20
| | | | | | | | | | | | | | | | | | | | | |
Db 54 VLARHLAAVGDEFK 67

RESULT 6

US-11-097-143-36192
; Sequence 36192, Application US/11097143
; Publication No. US20050208558A1
; GENERAL INFORMATION:
; APPLICANT: Venter, J. Craig
; APPLICANT: et al.
; TITLE OF INVENTION: DETECTION KIT, SUCH AS NUCLEIC ACID
; TITLE OF INVENTION: ARRAYS, FOR DETECTING EXPRESSION OF 10,000 OR MORE
; TITLE OF INVENTION: DROSOPHILA GENES.
; FILE REFERENCE: CL000728
; CURRENT APPLICATION NUMBER: US/11/097,143
; CURRENT FILING DATE: 2005-04-04
; PRIOR APPLICATION NUMBER: 60/157,832
; PRIOR FILING DATE: 1999-10-05
; PRIOR APPLICATION NUMBER: 60/160,191